

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**CHARLES MORROW and MICHAEL )  
OVERTON, Individually and on behalf )  
of similarly situated employees, )**

**Plaintiffs,**

**v.**

**FLOWERS FOODS, INC., FLOWERS )  
BAKING CO., OF OPELIKA, LLC, )**

**Defendants.**

**CIVIL ACTION NO:  
3:07-CV-617-MHT**

**DEFENDANT FLOWERS FOODS, INC.'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

Defendant Flowers Foods, Inc. respectfully submits this FED. R. CIV. PROC. 12(c) Motion for Judgment on the Pleadings due to the failure of Plaintiffs' Complaint to state a claim upon which relief can be granted against Flowers Foods, Inc. for the reasons stated in its Brief in Support, which accompanies this Motion.

Respectfully submitted this 17th day of August, 2007.

/s/ Kevin P. Hishta  
Kevin P. Hishta  
Georgia Bar No. 357410  
Admitted *Pro Hac Vice*  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
Bank of America Plaza  
600 Peachtree Street, NE  
Suite 2100  
Atlanta, GA 30308  
E-mail: Kevin.Hishta@ogletreedeakins.com  
(404) 881-1300  
(404) 870-1732 Fax

*Counsel for Defendants, Flowers Foods, Inc. and  
Flowers Baking Co. of Opelika, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 17th day of August, 2007, I electronically filed the foregoing Defendant Flowers Foods, Inc.'s Motion for Judgment on the Pleadings with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Greg L. Davis, Esq.  
The Law Offices of Greg L. Davis  
6987 Halcyon Park Drive  
Montgomery, AL 36117

Joe R. Whatley, Jr., Esq.  
Whatley Drake & Kallas, LLC  
2001 Park Place North  
Suite 1000  
Birmingham, Alabama 35203

Joseph P. Guglielmo, Esq.  
Whatley Drake & Kallas, LLC  
1504 Broadway, 37<sup>th</sup> Floor  
New York, New York 10036

I hereby certify that a true and correct copy will be sent by First Class, U.S. Mail on this 17th day of August, 2007 to the following counsel who are not registered for efilings:

Amy Lynne Weaver  
Whatley Drake & Kallas, LLC  
2001 Park Place North  
Suite 1000  
Birmingham, Alabama 35203

E. Kirk Wood, Esq.  
Law Offices of Archie Lamb  
2017 2<sup>nd</sup> Avenue North  
Birmingham, Alabama 35201

/s/ Kevin P. Hishta

Kevin P. Hishta